



CHESTER J. CULVER, GOVERNOR
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STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES
RICHARD A. LEOPOLD, DIRECTOR

To: Owners of Underground Storage Tanks and Other Interested Parties
From: Elaine Douskey, Supervisor, Underground Storage Tank Section
Date: August 8, 2007
Re: Proposed Rules on Requiring Secondary Containment and Fuel Delivery Prohibition

The Iowa Legislature passed legislation (2007 Iowa Acts, Senate File 499) in response to provisions of the federal Energy Policy Act of 2005. The Commission is required to adopt rules consistent with Environmental Protection Agency guidance (see <http://www.epa.gov/OUST/index.htm>). The law requires all new underground storage tank and piping installations and replacements be constructed to provide secondary containment (i.e., double-walled tanks and piping) if they are within 1,000 feet of a community water system or a potable drinking water well. Under-dispenser containment systems must also be installed whenever dispensers are replaced. In addition the law requires the capability to prohibit fuel delivery to tanks out of compliance with operation and maintenance rules.

The Iowa legislation requires that all new and replacement UST systems installed after August 1, 2007, comply with EPA secondary containment requirement.

The proposed rules require secondary containment for all new underground storage tank and piping installations and replacements unless an exception can be proved by the tank owner. Most sites with an underground storage tank system provide water onsite and will be within 1,000 feet of a community water system or a potable drinking water well. Exceptions from the requirement to install secondary containment will be rare.

The replacement of piping with secondary containment is required when more than ten feet of piping is replaced. Under-dispenser containment is required when a dispenser is replaced along with changes in piping under the dispenser or when piping is replaced within ten feet of the dispenser.

The EPA guidance requires states to adopt rules which at a minimum establish (1) criteria for determining under what conditions UST systems would be subject to a delivery prohibition; (2) mechanisms to identify UST systems which could be subject to the delivery prohibition; (3) criteria under which the delivery prohibition may be removed; (4) adequate procedural due process such as prior notice before imposition of the delivery prohibition; and (5) processes and criteria to identify UST systems which could be exempted from the delivery prohibition if they are in rural or remote areas. The Department has determined that there are no remote or rural areas where access to a petroleum marketing facility is unavailable even in the event of a delivery prohibition.

The amendments propose to broaden the existing UST registration and annual tank management fee tagging system to require owners and operators to certify compliance with spill and overflow, release detection, and corrosion protection rules. UST systems that are potentially out

of compliance would also be identified through biennial third-party compliance inspections and inspections of facilities by the Department.

The rule amendments establish three levels of criteria for determining noncompliance sufficient to warrant imposition of the delivery prohibition. Each level provides the owner and operator with a greater degree of due process in the form of prior notice and an opportunity to challenge the basis for the delivery prohibition. UST facilities may be designated as operating under "provisional" status if they are found to have a pattern of violations. Owners and operators would be offered a remedial plan, and if they fail to satisfy the terms of the plan, owners and operators would then be subject to the delivery prohibition after notice and an opportunity for a contested case hearing. This remedy is in addition to other enforcement mechanisms, such as the issuance of orders and the assessment of penalties.

Owners and operators subject to the delivery prohibition shall be required to return to the Department any registration tag or current annual tank management fee tag within three days. If the tags are not returned, the Department will attach a "red tag" to the UST fill pipe. It is illegal for an owner or operator to accept fuel or for a person to deposit fuel into a UST without current tags or with a "red tag."

Any interested person may submit written comments on the proposed amendments on or before Friday, August 24, 2007. Written comments should be sent to the Iowa Department of Natural Resources, Attn: Paul Nelson, Wallace State Office Building, Des Moines, Iowa 50319; fax (515)281- 8895; or E-mail paul.nelson@dnr.state.ia.us. You may obtain a copy of the proposed rules on the department website at <http://www.iowadnr.com/land/ust/ustproprulesindex.html> or by contacting the department at 515-281-8779.

Three public hearings will be held on the rules at the following locations:

August 21, 2007 at 1 p.m.
Iowa City Public Library
123 S. Linn Street
Iowa City, Iowa

August 22, 2007 at 1 p.m.
Community Meeting Room
Denison City Hall Clerk's Office
111 N. Main Street
Denison, Iowa

August 23, 2007 at 1 p.m.
Wallace State Office Building
502 E. Ninth Street
Fifth Floor East Conference Room
Des Moines, Iowa

Any person who intends to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Paul Nelson at (515)281-8779 to advise of specific needs.